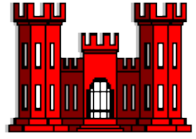


Legislative / Authorization Process

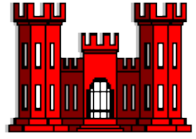
Planning Associates
2 March 2011

Jan Rasgus
Senior Policy Advisor
Policy and Policy Compliance Division



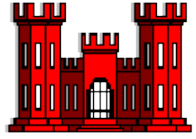
Legislative/Authorization Business Process

- Congress' Legislative Process
- Water Resource Development Acts
- Legislative Drafting Services/WRDA Fact Sheets
- HQs Organization/ Responsibilities
- Relationships / Communication
- Congressional Hearings
- Comments on Proposed Legislation
- Study Resolutions
- Standing Study Authorities
- WRDA 2007



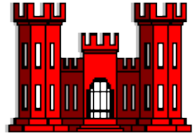
Congress Legislative Process

- Each Congress covers a two-year period broken into two sessions (111th Congress runs from Jan 2009 through Dec 2010)
 - 1st session: Jan 09 – Dec 09
 - 2nd session : Jan 10 – Dec 10
- New legislation can be introduced at any time by any member, House or Senate
- Legislation not enacted on during a Congress can be reintroduced in the next Congress if the member so desires



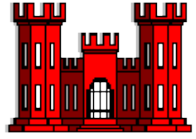
Congress Legislative Process

- Generally legislation can be introduced in either the House or Senate or both
- Appropriations is an exception – it must originate in the House
- Appropriations Bills are for a single fiscal year; therefore, two bills get introduced and acted on during a Congress



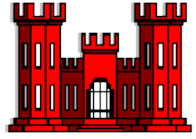
Congress Legislative Process

- Once a bill is introduced it is referred to the primary committee of jurisdiction
- Committee refers it to a subcommittee for action
- Hearings held and recommended bill for full Committee consideration is developed
- Full committee marks up bill and reports it for consideration on the Floor



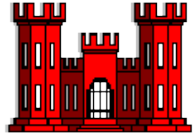
What is WRDA?

- Water Resources Development Act
- “Biennial” legislation to authorize Corps studies, projects and programs and legislate new policies for Corps Civil Works Program – 86, 88, 90, 92, 96, 99, 2000, 2007
- Important because Corps projects are typically **individually** formulated, developed and authorized
- Prior to 1986 also called
 - River and Harbor Act
 - Flood Control Act
 - Water Resources Act



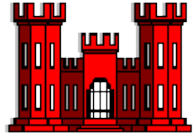
A Typical WRDA

- Title I – Water Resources Projects
- Title II – General Provisions/Policy
- Title III – Project Modifications
- Title IV – Studies
- Title V – Miscellaneous Provisions
- Title VI – Major Programs like Everglades



WRDA Development Interface

- House Authorizing Committees
Transportation and Infrastructure Committee
- Senate Authorizing Committees
Environment and Public Works Committee
- Members Personal Offices
- Office of the Assistant Secretary
- OMB



WRDA Development Process

WRDA Action Team

- Function: Leads all Corps offices in proposal development
- Membership: Major HQs components and 8 MSCs
- Proposal Criteria: Corps Vision, CW Strategic Plan, and critical trends

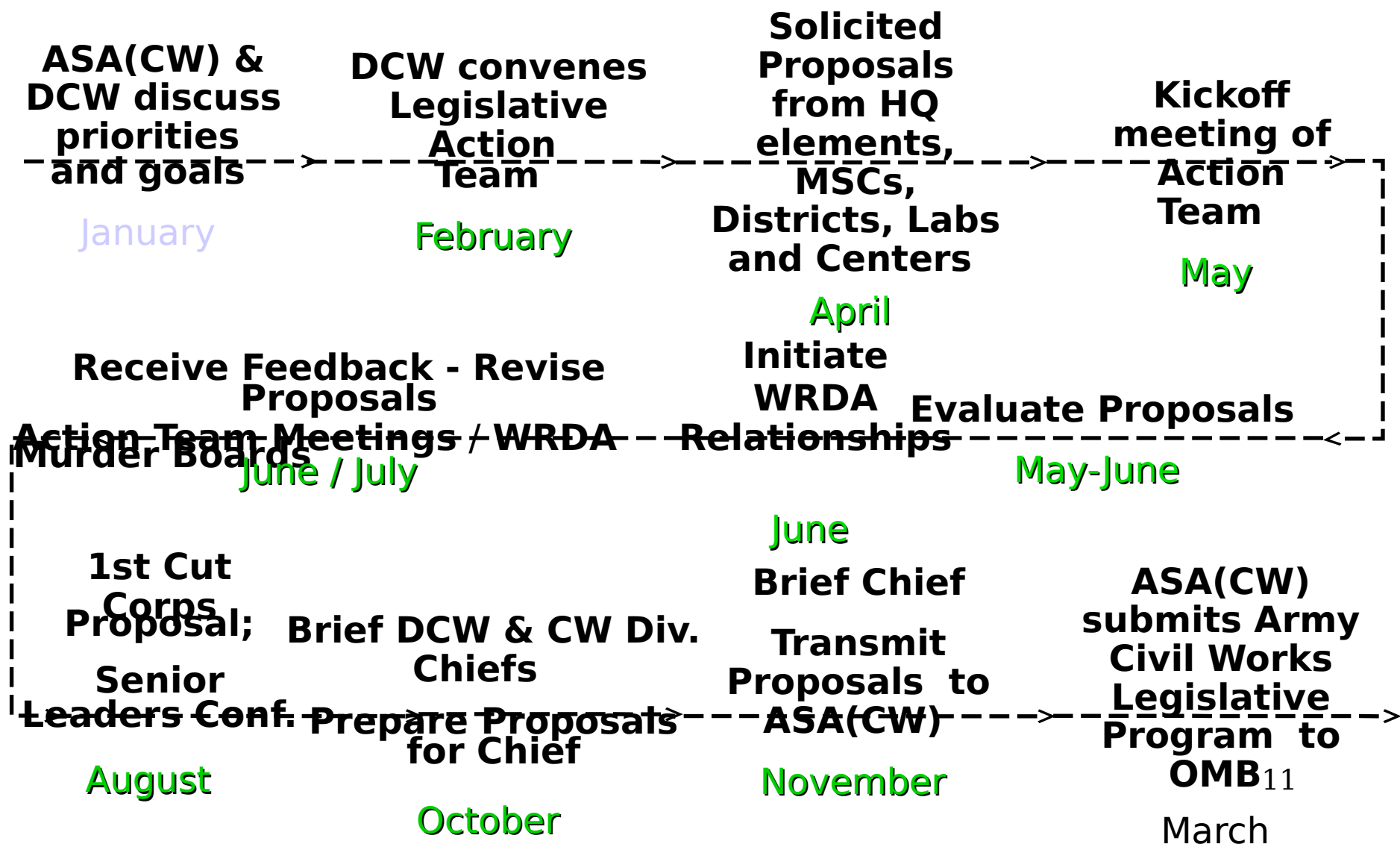


ADMINISTRATION WRDA DEVELOPMENT



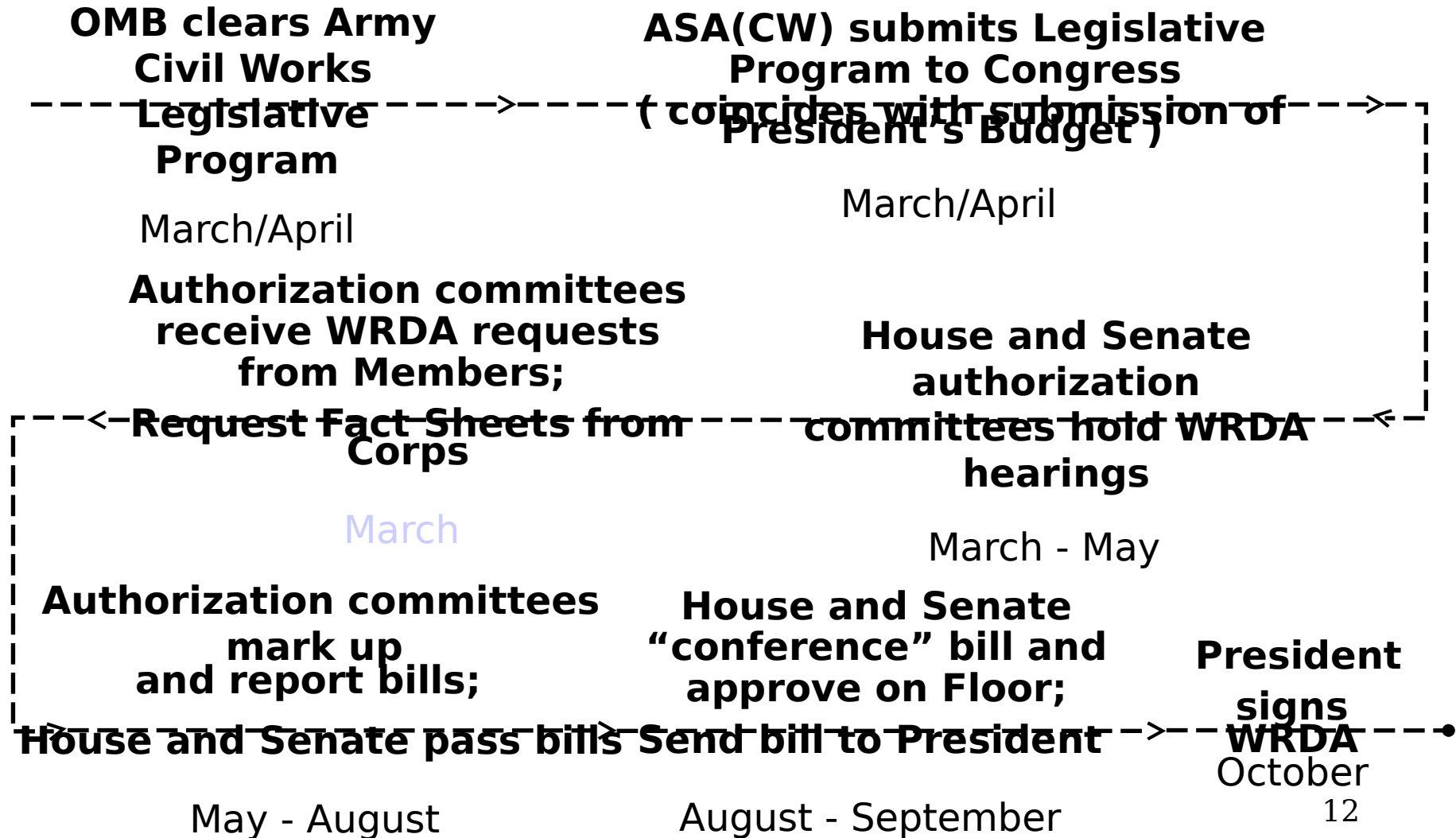


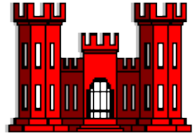
Proposal Year Schedule





Enactment Year Schedule





Authorization Support to Congress

- WRDA Fact Sheets
 - Background info
 - Discussion of Issues
 - Statement of Position (*for HQ use only*)
- Extremely Important to be Succinct and Complete and “Full Disclosure”



WRDA Fact Sheet

DRAFT EC ON CIVIL WORKS LEGISLATIVE PROCESS

EXHIBIT 2-4

CEXXXX

DDMMYY

WRDA FACT SHEET

SUBJECT: (Do not change subject name without first contacting CECW-PL.)

LOCATION: City: County: State:

DESCRIPTION: (Describe what the Member's request is intended to do.)

BACKGROUND: (Address physical aspects of proposed project. Has USACE studied this before – what did we find? Does USACE have anything currently underway here – when will it be completed?)

PREVIOUS CONGRESSIONAL ACTION: (Has there been any previous congressional actions related to the proposal – what did they do and what were the results/recommendations? Does the proposal intend to amend existing statute – what statute?)

ISSUES: (What is related USACE policy – is this proposal inconsistent with it – why?)

OTHER INFORMATION: (Any other pertinent information or facts.)

ESTIMATED COST:

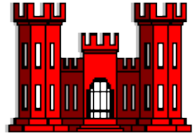
Federal: \$ Non-Federal: \$ Total: \$

Source/Age of Cost Information: (If these are USACE estimates, how current are they? Are the estimates from another source – what is that source; how current is that information; are there any qualifying criteria?)

LOCAL INTEREST OR OPPOSITION: (Include all known interest – is there known support or opposition?)

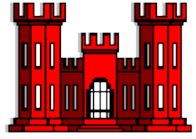
CONGRESSIONAL INTEREST:

A-11



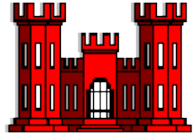
Legislative Drafting Services

- Technical service consisting of draft bill language that accomplishes Member's intent
- At the request of Member of Congress or staff
 - Oral or written
 - Draft language often provided by requestor
- Provide in a timely manner
- Need not represent Administration's position; always has qualification statement



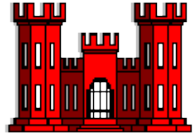
Legislative Drafting Services

- Avoid appearance of Advocacy
- Clear through proper channels to HQs
- Provide background information
- Make sure you understand member's intent
- Make sure folks understand Corps policies and procedures and understand that non-policy compliant provisions do not compete well in the budget
- Work closely with Counsel



Legislative Drafting Services

“This draft legislation is provided as a drafting service at your request and should not be construed as an Army or Administration position on this proposal. Under departmental procedures, the official position on the merits of this legislation will be developed by the Secretary of the Army in response to a request from the Chairman of the Committee having the legislation under consideration, and then only after coordination with the Office of Management and Budget and other agencies.”



Relationship with Congress

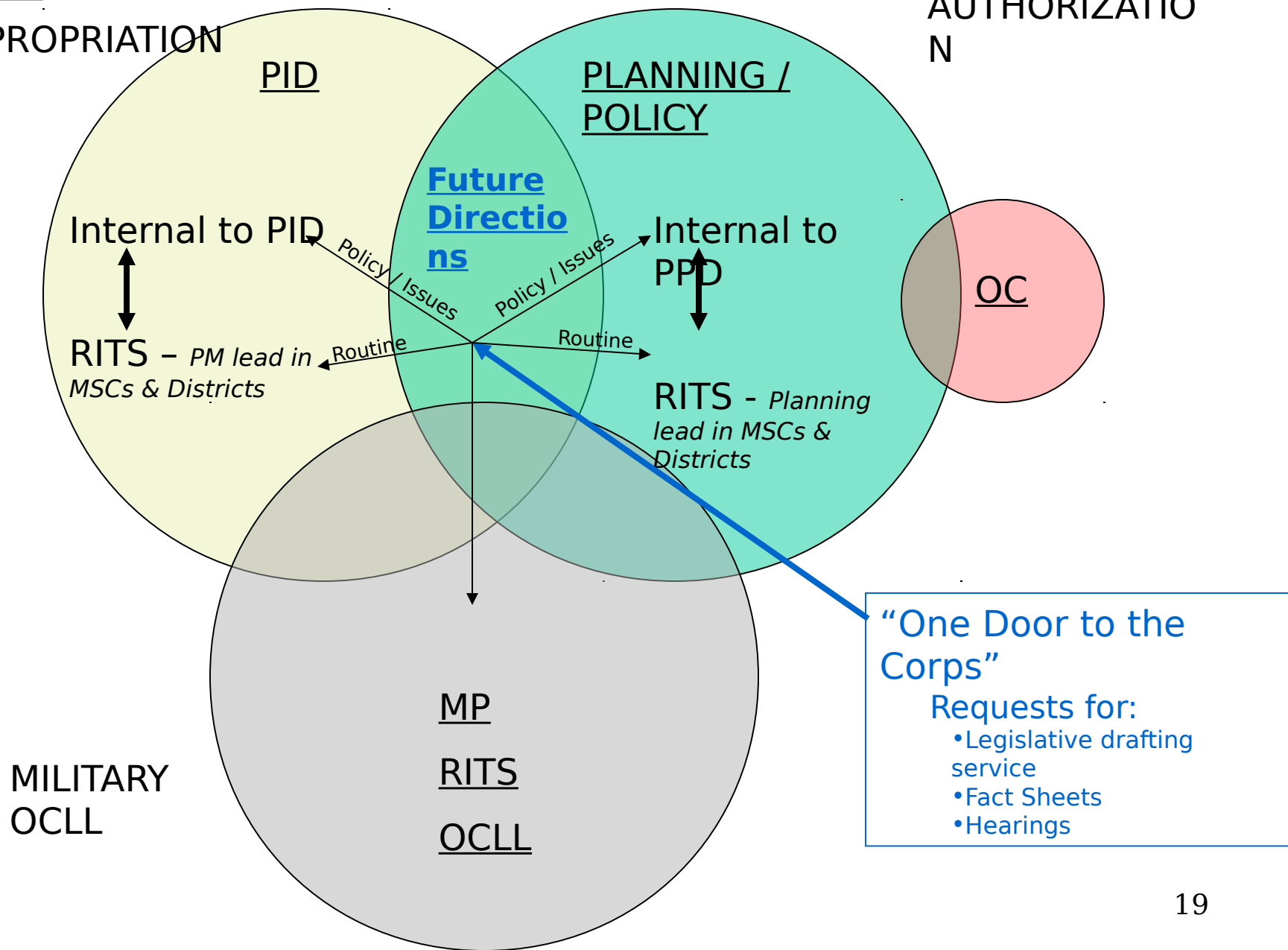
- Cultivate relationships
- Be responsive
- Provide information
- Communicate results
- No lobbying



LEGISLATIVE RESPONSE

APPROPRIATION

AUTHORIZATION





HQ Role in Authorization

PAB Recommendation

- Take active role in fact sheet quality
- HQ Key staff members should visit key members
- HQ designate POC for authorization legislation
- POC should track metrics and pull and share nationally significant fact sheets
- Issue memo that codifies planning responsibility in WRDA process



MSC Role in Authorization

PAB Recommendation

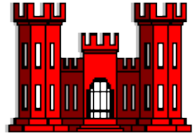
- Planning Chief responsible for Authorization actions
- Planners will be SME on pre and post authorization matters for PDT
- Take active role in fact sheet quality
- Authorization matters should be agenda item for all planning boards
- Identify fact sheets with national significance and communicate broad implications internally



District Role in Authorization

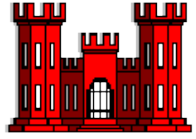
PAB Recommendation

- Planning Chief responsible for Authorization matters
- Take active role in fact sheet quality
- Training for appropriate personnel
- Fact sheet development as standard business process for studies
- Identify POC to look at all sheets before they leave the District
- Planners will be SME on WRDA for PDT
- Planning chief must communicate strategy on WRDA actions to District leadership



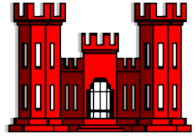
Locals Role in Authorization Process

- Local officials ask Corps for assistance
- Locals ask Congressional delegation for study authorization/other
- Member asks House T&I or Senate E&PW Committee to authorize study/other
- Committee asks Corps for information/draft study resolution
- Committee adopts study resolution if Corps has an existing broad authority or we have studied the problem before (review of prior study)
- If no existing authority, need new study authority in law (usually a WRDA)



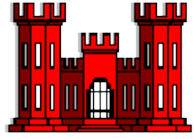
Types of Study Authorizations

- Legislative Actions
 - Study Specific Authorization (in law/WRDA)
 - Study Resolution (by committee action)
- Standing or Program Authorities



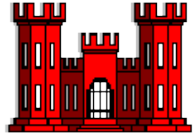
Study Resolutions

- A drafting service for Congress
- Authority – Section 3 of the River and Harbors Act of 1912(25 July 1912)
 - Section 3 authorizes the examination and review of previous reports on request by Committee resolutions
- Includes a fact sheet and a draft study resolution



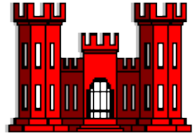
Standing Study Authorities

- Section 216, Flood Control Act of 1970
- Section 2, 1958 Fish and Wildlife Coordination Act
- Continuing Authorities Program (CAP)
 - Sections 107,205, 14, 1135, 204,206, 103, 208
 - These are construction authorities as well



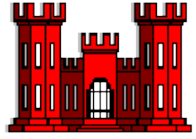
Congressional Hearings

- An opportunity to educate Congress
- Usually by letter of invitation from Committee Chairman
- Agency witness is cleared by OASA(CW)



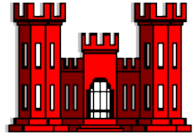
Congressional Hearings

- POC at HQs is responsible for:
 - Scoping meeting
 - Preparation / coordination / clearance of testimony
 - Briefing the witness
 - Editing transcript and answering questions for the record



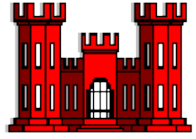
Congressional Hearings

- ASA(CW) responsible for:
 - final determination on who will be Army's witness
 - ensuring testimony accurately reflects views of Administration, i.e., coordinated with OMB



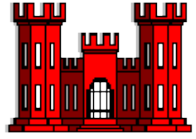
Comments on Proposed Legislation

- Letter of agency or Administration comments on pending bills
- Initiated by Agency or requested by Chairman of committee with jurisdiction over bill
- Always cleared by OMB
- Agency reports are signed by ASA(CW)



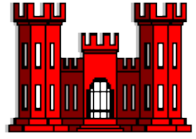
Summary

- Need Authority to Study/Construct
- Sources of Authority Include:
 - House or Senate Committee Resolution
 - WRDA or other Act of law
 - Standing Study Authorities
- **Need Appropriation to initiate study**
- **Need separate authorization and appropriation for construction**



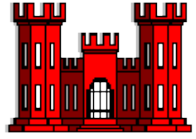
A Typical WRDA

- Title I – Water Resources Projects
- Title II – General Provisions/Policy
- Title III – Project Modifications
- Title IV – Studies
- Title V – Miscellaneous Provisions
- Title VI – Major Programs like Everglades



WRDA 2007

- Title I - Project Authorizations
- Title II - General Provisions (Policy)
- Title III - Project Related Provisions
- Title IV - Studies
- Title V - Miscellaneous
- Title VI - Florida Everglades
- Title VII - Louisiana Coastal Area
- Title VIII - Upper Miss and Ill Waterway
- Title IX - National Levee Safety Program



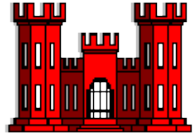
Provisions

- Section 2003 – PPAs and Credit
- Section 2031 – Principles and Guidelines
- Section 2034 – Independent Peer Review
- Section 2035 – Safety Assurance Review
- Section 2036 – Mitigation
- Section 2037 – Regional Sediment Management
- Title VII – Louisiana Coastal
- Title VII – Upper Miss and Ill Waterway
- Title IX – Levee Safety Program



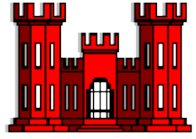
WRDA Implementation

- Legislative versus Executive Branch
- Guidance tells what to do to execute the law in consideration of the Executive Branch's Policies
- District responsibilities
- Division responsibilities
- HQs RITS



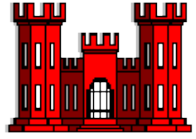
Implementation

- POCs were identified for preparing implementation guidance and priorities set. Unfunded provisions have low priority.
- RITs have the lead for preparing project specific guidance
- Guidance must be policy consistent and legally sufficient
- Implementation guidance undergoes HQ's policy and legal review to insure consistency before it goes to ASA(CW) for concurrence
- Implementation Guidance is developed in coordination with the OASA(CW)
- Implementation Guidance is not final until concurred in by OASA(CW)
- Guidance is being posted on (a SharePoint database that is accessible on the Planning Home Page and) the Policy and Policy Compliance Division's website.



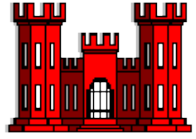
Implementation

- Main Things you need to understand (or find out) when drafting WRDA Implementation Guidance.
 - CW Planning, Policy and Procedures
 - Budgetary Policy
 - What the legislation says and what it does not say
 - What the project is all about and its history; any policy issues?
 - The project's budgeting history, adds or budgeted?
 - What guidance has HQ/ASA given recently and/or in the past
 - Legal sufficiency
 - Coordination with appropriate functional elements
- Goal is to provide relevant, policy consistent guidance to the field on what the next steps are given consideration of the above.
- If it is policy consistent, then it may be budgetable
- Provide sufficient background info (fact sheet) to HQs



Implementation

- Guidance Format
 - Look at existing guidance
 - First paragraph is summary of law
 - Remaining paragraphs provide direction as to how to proceed
- Policy and Policy Compliance Website:
http://www.usace.army.mil/CECW/Documents/cecwp/leg_manage/wrda2007/wrda07_imp.pdf



WRDA 2007

QUESTIONS?

OPEN DISCUSSION